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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/792,072 02/10/97 SUGIURA

S 35-C2653CII/

005514 WM31/0605  
FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK NY 10112

EXAMINER

ROGERS, S

ART UNIT	PAPER NUMBER
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2624

*37*

DATE MAILED:

06/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/792,072</b>	Applicant(s) <b>SUGIURA et al</b>
	Examiner <b>Scott Rogers</b>	Art Unit <b>2624</b>



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is **FINAL**.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

4)  Claim(s) 1-71 and 73-87 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-71 and 73-87 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on Sep 10, 1992 is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 21      20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Reissue Application***

#### ***Assent of Assignee - Objection***

This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must establish its ownership interest *in order to support the consent to a reissue application required by 37 CFR 1.172(a)*. The submission on October 2, 1991 (Part of Paper No. 4) establishing the ownership interest of the assignee is informal. There is no indication of record that the party who signed the submission is an appropriate party to sign on behalf of the assignee. See 37 CFR 3.73(b). The person who signed the submission establishing ownership interest has failed to state his/her capacity to sign for the corporation or other business entity, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.

It would be acceptable for a person, other than a recognized officer, to execute a submission establishing ownership interest, provided the record for the application includes a statement that the person is empowered to sign a submission establishing ownership interest and/or act on behalf of the organization.

Accordingly, a new submission establishing ownership interest which includes such a statement above, will be considered to be executed by an appropriate official of the assignee. A

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separately filed paper referencing the previously filed submission establishing ownership interest and containing a proper empowerment statement would also be acceptable.

A proper submission establishing ownership interest in the patent, pursuant to 37 CFR 1.172(a), is required in response to this action.

***Reissue Declaration - Defective***

Applicant did not file a Supplemental Declaration with the Amendment After Final Action entered as Preliminary Amendment E (Paper No. 31) to address changes to the claims and how these changes correct defects discussed in the final Office action mailed April 3, 1996 (Paper No. 24). A Supplemental Declaration with signatures is required in response to this action. If any additional changes are made to the claims, the required Supplemental Declaration must also address those additional changes.

Claims 1-71 and 73-87 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

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***Drawings***

The drawings are objected to because the changes made to Figures 1, 5, and 10 submitted September 10, 1992 (Part of Paper No. 7) did not include labeling these Figures as "AMENDED". Correction is required.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for *formal* communications intended for entry)

(703) 872-9314 (for *informal* or *draft* communications, please label  
"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).*

Any inquiry concerning this application should be directed to **Scott Rogers** at (703) 305-4726 or Internet e-mail address [scott.rogers@uspto.gov](mailto:scott.rogers@uspto.gov). The TC 2600 receptionist telephone number is (703) 305-4700 or 4750. The main facsimile number for TC 2600 is (703) 872-9314.

*Scott A. Rogers*  
SCOTT A. ROGERS  
PRIMARY EXAMINER  
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